

§ 1218.53

7 CFR Ch. XI (1–1–04 Edition)

payment charge shall be imposed on any handler who fails to remit to the USACBC, the total amount for which any such handler is liable on or before the due date established by the USACBC. In addition to the late payment charge, an interest charge shall be imposed on the outstanding amount for which the handler is liable. The rate of interest shall be prescribed in regulations issued by the Secretary.

(f) Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(g) The USACBC may authorize other organizations to collect assessments on its behalf with the approval of the Secretary.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.53 Exemption procedures.

(a) Any producer who produces less than 2,000 pounds of blueberries annually who desires to claim an exemption from assessments during a fiscal year as provided in §1218.42 shall apply to the USACBC, on a form provided by the USACBC, for a certificate of exemption. Such producer shall certify that the producer's production of blueberries shall be less than 2,000 pounds for the fiscal year for which the exemption is claimed. Any importer who imports less than 2,000 pounds of fresh and processed blueberries annually who desires to claim an exemption from assessments during a fiscal year as provided in §1218.52 shall apply to the USACBC, on a form provided by the USACBC, for a certificate of exemption. Such importer shall certify that the importer's importation of fresh and processed blueberries shall not exceed 2,000 pounds, for the fiscal year for which the exemption is claimed.

(b) On receipt of an application, the USACBC shall determine whether an exemption may be granted. The USACBC then will issue, if deemed appropriate, a certificate of exemption to each person who is eligible to receive one. Each producer who is exempt from assessment must provide an exemption number to the first handler in order to be exempt from the collection of an assessment on blueberries. First handlers and importers, except as otherwise au-

thorized by the USACBC, shall maintain records showing the exemptee's name and address along with the exemption number assigned by the USACBC.

(c) Importers who are exempt from assessment shall be eligible for reimbursement of assessments collected by the U.S. Customs Service and shall apply to the USACBC for reimbursement of such assessments paid. No interest will be paid on assessments collected by the U.S. Customs Service. Requests for reimbursement shall be submitted to the USACBC within 90 days of the last day of the year the blueberries were actually imported.

(d) Any person who desires an exemption from assessments for a subsequent fiscal year shall reapply to the USACBC, on a form provided by the USACBC, for a certificate of exemption.

(e) The USACBC may require persons receiving an exemption from assessments to provide to the USACBC reports on the disposition of exempt blueberries and, in the case of importers, proof of payment of assessments.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.54 Programs, plans, and projects.

(a) The USACBC shall receive and evaluate, or on its own initiative develop, and submit to the Secretary for approval any program, plan, or project authorized under this subpart. Such programs, plans, or projects shall provide for:

(1) The establishment, issuance, effectuation, and administration of appropriate programs for promotion, research, and information, including producer and consumer information, with respect to fresh and processed blueberries; and

(2) The establishment and conduct of research with respect to the use, nutritional value, sale, distribution, and marketing of fresh and processed blueberries, and the creation of new products thereof, to the end that the marketing and use of blueberries may be encouraged, expanded, improved, or made more acceptable and to advance the image, desirability, or quality of fresh and processed blueberries.

Agricultural Marketing Service, USDA

§ 1218.61

(b) No program, plan, or project shall be implemented prior to its approval by the Secretary. Once a program, plan, or project is so approved, the USACBC shall take appropriate steps to implement it.

(c) Each program, plan, or project implemented under this subpart shall be reviewed or evaluated periodically by the USACBC to ensure that it contributes to an effective program of promotion, research, or information. If it is found by the USACBC that any such program, plan, or project does not contribute to an effective program of promotion, research, or information, then the USACBC shall terminate such program, plan, or project.

(d) No program, plan, or project including advertising shall be false or misleading or disparaging another agricultural commodity. Blueberries of all origins shall be treated equally.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.55 Independent evaluation.

The USACBC shall, not less often than every five years, authorize and fund, from funds otherwise available to the USACBC, an independent evaluation of the effectiveness of the Order and other programs conducted by the USACBC pursuant to the Act. The USACBC shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.56 Patents, copyrights, trademarks, information, publications, and product formulations.

Patents, copyrights, trademarks, information, publications, and product formulations developed through the use of funds received by the USACBC under this subpart shall be the property of the U.S. Government as represented by the USACBC and shall, along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, information, publications, or product formulations, inure to the benefit of the USACBC; shall be

considered income subject to the same fiscal, budget, and audit controls as other funds of the USACBC; and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1218.73 shall apply to determine disposition of all such property.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

REPORTS, BOOKS, AND RECORDS

§ 1218.60 Reports.

(a) Each first handler subject to this subpart may be required to provide to the USACBC periodically such information as may be required by the USACBC, with the approval of the Secretary, which may include but not be limited to the following:

- (1) Number of pounds handled;
- (2) Number of pounds on which an assessment was collected;
- (3) Name and address of person from whom the first handler has collected the assessments on each pound handled; and

(4) Date collection was made on each pound handled. All reports are due to the USACBC 30 days after the end of the crop year.

(b) Each producer and importer subject to this subpart may be required to provide to the USACBC periodically such information as may be required by the USACBC, with the approval of the Secretary, which may include but not be limited to the following:

- (1) Number of pounds produced;
- (2) Number of pounds on which an assessment was paid;
- (3) Name and address of the producer;
- (4) Date collection was made on each pound produced. All reports are due to the USACBC 30 days after the end of the crop year.

[65 FR 43963, July 17, 2000, as amended at 66 FR 37119, July 17, 2001]

§ 1218.61 Books and records.

Each first handler, producer, and importer subject to this subpart shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any reports required. Such